

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ALLAH,

11 Plaintiff,

12 v.

13 ANCER L. HAGGERTY, et al.,

14 Defendants.

CASE NO. C14-1551JLR

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING COMPLAINT
WITHOUT PREJUDICE

15 **I. INTRODUCTION**

16 This matter comes before the court on the Report and Recommendation of United
17 States Magistrate Judge Mary Alice Theiler (R&R (Dkt. # 9)), and Plaintiff Allah's
18 objections thereto (Obj. (Dkt. # 10)). Having carefully reviewed all of the foregoing,
19 along with all other relevant documents, and the governing law, the court ADOPTS the
20 Report and Recommendation (Dkt. # 9) and DISMISSES Plaintiff's complaint (Dkt. # 8)
21 without prejudice. The court further ORDERS that this dismissal shall constitute a
22 dismissal under 28 U.S.C. § 1915(g).

I. BACKGROUND

Plaintiff filed an application to proceed *in forma pauperis* (see Dkt. # 1), which the court granted on November 25, 2014 (see Dkt. # 7). Plaintiff's complaint was filed that same day. (Compl. (Dkt. # 8).) Plaintiff's complaint is difficult to understand, but the court concurs with Magistrate Judge Theiler that Plaintiff appears to be challenging various criminal prosecutions and/or convictions which he claims were fraudulent and have resulted in his unlawful imprisonment. He specifically references three convictions in King County Superior Court, including cause numbers 01-1-10807-3SEA, 01-1-09176-6SEA, and 02-1-02047-6SEA (Compl. at 2), which he previously challenged in this court (see *Allah v. Waddington*, No. C05-1480MJP-MAT (W.D. Wash.); *Allah v. Frakes*, No. C12-0484TSZ (W.D. Wash.); *Allah v. Robinson, et al.*, No. C14-1234TSZ (W.D. Wash.)). Plaintiff also references a criminal prosecution initiated against him in Franklin County Superior Court, which is ongoing under cause number 12-1-50324-8, and a federal criminal action initiated against him in the United States District Court for the Eastern District of Washington under cause number C13-112-ALH. (See Compl. at 3.) Liberally construed, Plaintiff's complaint alleges in essence that those involved in the above prosecutions are guilty of kidnapping, false imprisonment, slavery, peonage, assault, racketeering, extortion, slander, trafficking in counterfeit trade names, fraud and related activity in identification, and cruel and unusual punishment. (See generally *id.*) He seeks both declaratory and monetary relief. (See *id.*)

Plaintiff identifies his pleading as a criminal complaint, although he clearly has no authority to initiate a criminal proceeding in this court, and he alleges that the court's

1 jurisdiction over his claims falls under the court's admiralty or maritime jurisdiction,
2 although such an allegation is plainly frivolous. The court agrees with Magistrate Judge
3 Theiler that Plaintiff's complaint, when liberally construed, constitutes a civil rights
4 complaint.

5 Magistrate Judge Theiler recommended dismissing Plaintiff's complaint under 28
6 U.S.C. § 1915(e)(2)(B). (R&R at 3-4.) First, Magistrate Judge Theiler found that
7 Plaintiff's apparent civil right claims, which call into question the lawfulness of his
8 convictions or confinement, are not cognizable because such claims do not accrue "unless
9 or until his conviction or sentence is reversed, expunged, invalidated, or impugned by the
10 grant of a writ of habeas corpus." (R&R at 3 (citing *Heck v. Humphrey*, 512 U.S. 477,
11 489 (1994)).) Second, Magistrate Judge Theiler found that, to the extent Plaintiff's
12 complaint also includes claims about the conditions of his confinement, he failed to
13 allege facts demonstrating that any of the named defendants personally participated in
14 causing him harm of constitutional dimension as is required to state a claim under 42
15 U.S.C. § 1983. (R&R at 3 (citing *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir.
16 1991)).)

17 In response, Plaintiff states that it "[i]s a lie" that he is state prisoner and that he
18 does not "fit the term 'prisoner', pursuant to 28 U.S.C. § 1915(2)(h)." (Obj. at 3.) He
19 also argues that the criminal cases listed above are against "Edwin Randal Coston." (*Id.*)
20 He asks for a transcript at government expense (*id.* at 4), but there has been no hearing
21 (other than on the record) in these proceedings. (*See generally* Dkt.) Finally, he states
22 that the "[t]he whiteman and whitewoman's word and history are SUSPECT!" (Obj. at

1 4.) He also demands “public records in the above cases be provided to show where Allah
2 who is God was judged.” (*Id.*) Although it is difficult to understand the gravamen of
3 Plaintiff’s objections, it appears that he is arguing that because he now goes by the name
4 “Allah,” his previous convictions under the name “Edwin Randall Coston” are invalid.
5 (*See generally id.*) Plaintiff essentially makes the same argument in his complaint. (*See,*
6 *e.g.,* Compl. at 4.)

7 II. STANDARD OF REVIEW

8 A district court has jurisdiction to review a Magistrate Judge’s report and
9 recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). “The district judge
10 must determine de novo any part of the magistrate judge’s disposition that has been
11 properly objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole
12 or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.
13 § 636(b)(1). The court reviews de novo those portions of the report and recommendation
14 to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d
15 1114, 1121 (9th Cir. 2003) (en banc). “The statute makes it clear that the district judge
16 must review the magistrate judge’s findings and recommendations de novo if objection is
17 made, but not otherwise.” *Id.* When no objections are filed, the court need not review de
18 novo the report and recommendation. *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th
19 Cir. 2005). Because Plaintiff is proceeding *pro se*, this court must interpret his complaint
20 and objections liberally. *See Bernhardt v. L.A. Cnty.*, 339 F.3d 920, 925 (9th Cir. 2003).

21 //

22 //

III. DISCUSSION

Plaintiff's objections do not directly respond to Magistrate Judge Theiler's Report and Recommendation. (*See generally* Obj.) Instead, Plaintiff argues anew that his convictions under the name Edwin Randall Coston are invalid because he now goes by the name Allah. (*See generally* Obj.) This issue was resolved by this court long ago and in another proceeding. In 2009, in *Allah v. Brunson*, No. C05-1480MJP (W.D. Wash.), the court held as follows:

Petitioner presented evidence to the state courts that he legally changed his name from Edwin R. Coston to Divine Answer Born Supreme Allah in 1995, and that he legally changed his name again in 1999 from Divine Answer Born Supreme Allah to Allah. . . . As petitioner's own evidence makes clear that Edwin R. Coston and Allah are the same individual, petitioner's contention that his convictions were unlawful because some of the trial court's documents bore only his former name is meritless.

Id., Dkt. # 61 at 8-9; *see also id.*, Dkt. # 65 at 2. Plaintiff presents no valid basis or reason for the court to revisit that ruling here.

In any event, none of Plaintiffs' objections specifically address Magistrate Judge Theiler's analysis or her reasons for recommending dismissal of Plaintiff's complaint under 28 U.S.C. § 1915(e)(2)(B). Plaintiff essentially restates some of the same allegations in his objection to the report and recommendation that Magistrate Judge Theiler found failed to state a cognizable claim in his complaint. The court has thoroughly examined the record before it and finds Magistrate Judge Theiler's reasoning persuasive in light of that record. Accordingly, the court independently rejects Plaintiff's arguments for the same reasons as Magistrate Judge Theiler in her Report and Recommendation.

IV. CONCLUSION

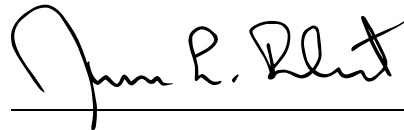
For the foregoing reasons, the court hereby ORDERS as follows:

(1) The court ADOPTS the Report and Recommendation (Dkt. # 9) in its entirety;

(2) The court DISMISSES Plaintiff's complaint (Dkt. # 8) without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a cognizable ground for relief. This dismissal shall count as a "strike" pursuant to 28 U.S.C. § 1915(g); and

(3) The court DIRECTS the Clerk to send copies of this order to Plaintiff and to Magistrate Judge Theiler.

Dated this 6th day of February, 2015.

A handwritten signature in black ink, appearing to read "James L. Robart", written over a horizontal line.

JAMES L. ROBART
United States District Judge